

Appl. No. 10/612,641
Amdt. dated June 2, 2005
Reply to Office Action of May 11, 2005

REMARKS/ARGUMENTS

Amended claims 2, 10 and 16, as well as original claims 1, 3 - 9, 11 – 15 and 17 – 21, and new claims 22 - 28 are presented for Examiner Hill's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed May 11, 2005, Examiner Hill stated that the Information Disclosure Statement (IDS) filed February 14, 2005, failed to comply with 37 CFR 1.98(a)(3) because it did not provide an English translation of EP 0,460,467. For this reason, Examiner Hill did not consider this reference. Applicants believe that this EP reference should have been considered because on page 1 of their IDS, Applicants provided an English language equivalent of European Patent Application 0,460,467. This English language equivalent is U.S. Patent 5,204,997. Since an English language equivalent of European Patent Application 0,460,467 was enclosed, the Examiner could ascertain the relevance of this reference. If Applicants' attorney has misinterpreted Examiner Hill's reason for not considering this EP reference, he hereby requests Examiner Hill to inform him as to what else is needed to have this reference considered.

A new Abstract is attached herewith that replaces the original Abstract and has a length of less than 150 words.

The title has been replaced with a more descriptive title as suggested by Examiner Hill.

Independent claims 10 and 16 have been amended to more distinctly claim Applicants' invention. In paragraph (b) of each claim, language has been added to recite that the stretchable back panel is "spaced apart from said front panel." Basis for this language can be found in the specification at Col. 12, lines 21 - 22, and is also shown in Figures 2 and 3 of the drawings. No new matter has been introduced by way of these amendments and, therefore, they should be entered at this time.

Claim 2 has been amended to delete the word "to" and insert the word on. Basis for this language is found in the specification at page 7, line 16; page 8, lines 21 – 25 and page 16, lines 8 – 9; as well as in Figs. 2 and 3 of the drawings. No new matter has been introduced by way of this amendment and, therefore, it should be entered at this time.

New dependent claims 22 – 28 have been added that recite that: "the front and back panels are discontinuous from one another in a longitudinal direction." Independent claim 22 is similar to independent claim 1 with the addition that the stretchable back panel is "spaced apart from said

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front panel." Basis for this language can be found in the specification at page 12, lines 21 - 22 and such feature is also shown in Figures 2 and 3 of the drawings.

Dependent claim 23, 24 and 25 depends from independent claims 22, 10 and 16 respectively. These claims recite that the front and back panels are discontinuous from one another in a longitudinal direction. Basis for this language can be found in the specification at page 12, lines 21 - 22 and such feature is also shown in Figures 2 and 3 of the drawings.

Dependent claims 26, 27 and 28 depend from independent claims 1, 10 and 16 respectively. These claims recite that the stretchable front panel, the stretchable back panel and the absorbent assembly are all separate members. Basis for this language can be found in the specification at page 12, lines 21 - 22, and at page 14 starting at line 28 and continuing to page 16, line 7, as well as in Figures 2 and 3 of the drawings. No new matter has been introduced by way of these amendments and, therefore, they should be entered at this time.

By way of the Office Action mailed May 11, 2005, Examiner Hill rejected claims 1 - 3, 8, 10 - 11, 16 and 21 under 35 U.S.C. § 102 as allegedly being anticipated and thus unpatentable over EP Patent Number 1,072,243 A2 to Kuwasaka. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Applicants' original claim 1, as well as amended independent claims 1, 10 and 16, differ structurally from Kuwasaka (EP 1,072,243 A2) in several noticeable ways. First, Applicants' independent claims 1, 10 and 16 recite a "stretchable front panel and a stretchable back panel." Kuwasaka does not teach or disclose stretchable front and back panels. In fact, the front and back regions of Kuwasaka can not be stretchable since the front, back and crotch regions are all formed as a laminate from the same non-stretchable material. Kuwasaka teaches a diaper formed from a single laminate panel 1 comprising a topsheet 2, a backsheet 3 and an absorbent core 4 (see Figure 2 and Col. 5, lines 6 - 10). The single laminate contains a front waist region 20, a rear waist region 22 and a crotch region 21 (see Col. 5, lines 11 - 14). It is well known by those skilled in the disposable garment art that liquid-absorbent cores are not formed from stretchable materials. Therefore, the front and back regions of the Kuwasaka are not stretchable.

Second, Applicants' invention is a three-piece undergarment formed of a front panel 12, a back panel 52 and an absorbent assembly 92. The front panel 12 is a distinct member having first and second spaced apart ends, 18 and 20 respectively, see Figures 2 and 3. The back panel 52 is a distinct member having first and second spaced apart ends, 58 and 60 respectively, see Figures 2 and 3. As clearly depicted in Figures 2 and 3 of Applicants' drawings, the second end 20 of the front panel 12 is separated from the second end 60 of the back panel 52. By contrast, Kuwasaka discloses a one-piece unitary laminate that forms the entire diaper. There is no clear cut

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demarcation line of where the second end of the front and back regions are located. Accordingly, Kuwasaka does not teach or disclose a stretchable front panel that is separate and distinct from a stretchable back panel. Kuwasaka also does not teach or disclose an absorbent assembly that is separate and distinct from the front and back panels. Therefore, Kuwasaka does not have a structure that is similar to Applicants' claimed invention.

Third, Applicants' independent claims 1, 10 and 16 recite an absorbent assembly 92 that includes a bodyside liner 94, an outer cover 96 and an absorbent 98 positioned between the liner 94 and the outer cover 96. Applicants' absorbent assembly 92 is a distinct assembly that is secured to the front and back panels, 12 and 52 respectively. This attachment forms a three-piece undergarment. By contrast, Kuwasaka discloses a diaper formed from a one-piece laminate panel 1. The Kuwasaka's absorbent does not include a topsheet 2, a backsheet 3 and an absorbent core 4 as claimed by Applicants. In addition, in Kuwasaka, there is no separate absorbent assembly 92 that is secured to spaced apart front and back panels. Furthermore, the absorbent in Kuwasaka does not bridge across the front and back panels. In view of these structural differences, Applicants do not believe that Kuwasaka teaches or discloses their invention.

In addition to the above remarks, amended independent claims 10 and 16 as well as new claim 22, all recite that the back panel is spaced apart from the front panel. Kuwasaka does not exhibit this feature. Accordingly, Applicants believe that independent claims 1, 10, 16 and 22, as well as the claims that depend therefrom, are patentably distinct from Kuwasaka and this rejection should be removed.

By way of the Office Action mailed May 11, 2005, Examiner Hill rejected claims 4 – 7, 9, 12 - 15 and 17 - 20 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over EP Patent Number 1,072,243 A2 to Kuwasaka. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims. For the reasons stated above, Kuwasaka is deficient in disclosing Applicants' invention. Kuwasaka relates to a one-piece garment that is constructed differently from Applicants' invention. Kuwasaka does not teach stretchable front and back panels. Kuwasaka does not teach front and back panels that have second ends that are spaced apart from one another. Kuwasaka also does not teach an absorbent assembly that includes a bodyside liner 94, an outer cover 96 and an absorbent 98 that are separate and distinct from the front and back panels. For these reasons, Applicants do not believe that Kuwasaka teaches or discloses their invention. Accordingly, Applicants believe that claims 4 – 7, 9, 12 -15 and 17 – 20 are patentably distinct over Kuwasaka and should be allowed at this time.

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Applicants' attorney has reviewed the prior art made of record but not relied upon and found that none of them, either alone or taken in combination with one or more references, teach Applicants' present invention.

For the reasons stated above, it is respectfully submitted that original claims 1, 3 - 9, 11 - 15 and 17 - 21; amended claims 2, 10 and 16; and new claims 22 - 28 are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,
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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on June 2, 2005, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306.

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